

REMARKS:

Claims 1-9 are pending in the present application.

First, in the initial Office Action, the Examiner did not provide verification of the receipt and consideration of the Information Disclosure Statement ("IDS") filed on May 20, 2004. A copy of this Information Disclosure Statement and the return postcard verifying its receipt at the Office of Initial Patent Examination is attached hereto. Since the IDS was filed within three months of the filing date of the application, it should be considered pursuant to 37 C.F.R. § 1.97 and MPEP § 609.

Moving on to the substantive issues in the Office Action, the Examiner initially rejected claims 1-9 pursuant to 35 U.S.C. § 103(a) as being obvious in view of a combination of one or more of the following prior art references: U.S. Patent No. 3,273,163 issued to Andrews, U.S. Patent No. 5,940,891 issued to Lane, U.S. Patent No. 4,442,551 issued to Hellberg, and U.S. Patent No. 5,658,065 issued to Jamieson. Before discussing the specific claims of the present application, Applicant believes it to be beneficial to review the essential features and advantages of the present invention in order to place the discussion of the claims in proper context.

The present invention is a protective helmet with a system allowing for attachment of interchangeable accessories, such as a faceshield or goggles. This system includes interfaces secured to the helmet and capable of receiving various brackets, each bracket being used to secure a different accessory to the protective helmet. Of particular importance to the present invention, the ideal attachment location for various accessories sometimes differs. For example, a faceshield is typically designed to pivot about an axis which is located approximately midway between the front and rear of the helmet resulting in an arc of movement of the faceshield that is

generally concentric with the wearer's head. However, the location approximately midway between the front and rear of the helmet is too far forward for the attachment of goggles. Accordingly, in the present invention, although the position of the interfaces is fixed relative to the helmet, the length of the brackets can be altered for each accessory, ensuring a proper pivotal axis for that accessory relative to the helmet. For example, the pivot point end of each faceshield bracket is designed such that the pivotal axis defined by the brackets of the faceshield is approximately midway between the front and rear of the helmet, while the pivot point end of each goggle bracket is more elongated to provide a more rearward pivotal axis for the goggle straps.

U.S. Patent No. 3,273,163 issued to Andrews describes the attachment of an accessory to a hard hat that avoids piercing any of the electrical insulating walls of the hard hat. Furthermore, the Examiner correctly recognizes that the '163 Patent describes two different embodiments of the "separable unit of the attachment," as illustrated in Figures 3 and 6. However, each of these separable units nonetheless provides for attachment of an accessory at the same location relative to the hard hat, specifically at a substantially midway location between the front and the rear of the hard hat. In short, the '163 Patent does not even recognize the need for moving the pivotal axis forward or rearward relative to the hard hat depending on the chosen accessory, much less propose a solution.

U.S. Patent No. 5,940,891 issued to Lane describes a goggle mounting system in which the interfaces (bases) 30 are attached to the shell or liner of the protective helmet, but there is no teaching regarding the movement of the pivotal axis forward or rearward relative to the protective helmet depending on the chosen accessory.

U.S. Patent No. 4,442,551 issued to Hellberg describes an adapter for a protective helmet that includes a “forwardly directed arm 14 for carrying one end of a face shield, or visor 15.” See column 2; lines 10-11. Although the “forwardly directed arm 14” does result in a pivotal axis for the face shield that is forward of the pocket 11, there is no teaching or suggestion for providing an alternate bracket that would provide a more forward or rearward location for the pivotal axis of another accessory, such as a pair of goggles.

U.S. Patent No. 5,658,065 issued to Jamieson describes and claims a flashlight holder for a protective helmet, such as a hard hat. However, although the ‘065 Patent includes at least one embodiment in which the flashlight is pivoted about an axis rearward of its attachment to the helmet, there is no teaching regarding the movement of the pivotal axis forward or rearward relative to the protective helmet depending on the chosen accessory.

Returning to the present application, the claimed invention is a “system” that includes multiple pairs of brackets, each such pair of brackets being used with a different accessory for providing a pivot point location that is optimal for use of that particular accessory. In this regard, the optimal pivot point location is generally defined with reference to the interfaces secured to the helmet that receive and retain the brackets, i.e., the optimal pivot point location can be generally described as more forward or rearward relative to these interfaces and the helmet.

With this in mind, it is a fundamental precept of patent law that “[w]hen an obviousness determination relies on the combination of two or more references, there must be some suggestion or motivation to combine the references.” WMS Gaming Inc. v. International Game Technology, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). See also In re Rouffet, 149 F.3d 1350,

1359, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998); In re Oetiker, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678-79, 7 USPQ2d 1315, 1318 (Fed. Cir. 1988); In re Geiger, 815 F.2d 686, 687, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987); and Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1147, 227 USPQ 543, 551 (Fed. Cir. 1985).

As reiterated and emphasized by the Federal Circuit, such a requirement is a powerful protection against impermissible hindsight reconstruction:

Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references. [citations omitted]. Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight...[citations omitted].

In re Dembiczak, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). See also C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998) (describing "teaching or suggestion or motivation [to combine]" as an "essential evidentiary component of an obviousness holding"); and In re Rouffet, supra, 149 F.3d at 1359, 47 USPQ2d at 1459 (Fed. Cir. 1998) ("[T]he Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.").

In rejecting the broadest, independent claims of the present application as being obvious, the Examiner first combined the teachings of the '163 Patent (Andrews) and the '891 Patent (Lane). However, as described above, the '163 Patent describes the attachment of an accessory to a hard hat that avoids piercing any of the electrical insulating walls of the hard hat. There is no teaching or suggestion for moving the pivotal axis forward or rearward relative to the hard hat

depending on the chosen accessory. Similarly, although the '891 Patent describes a goggle mounting system in which the interfaces (bases) 30 are attached to the shell or liner of the protective helmet, it also provides no teaching or suggestion regarding the movement of the pivotal axis forward or rearward relative to the protective helmet depending on the chosen accessory.

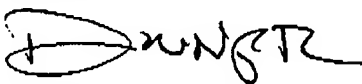
While describing elements or components of similar to those the claimed invention, the other cited prior art references similarly fail to provide any motivation for combining the references to reject the claims of the present application. Clearly, the only teaching or suggestion that supports the combination of the various prior art references is found in the teachings of the present application. This is a classic case of hindsight reconstruction in which the present patent application has been used as "a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit." Orthopedic Equip. Co. v. United States, 702 F.2d 1005, 1012, 217 USPQ 193, 199 (Fed. Cir. 1983). In short, it is the present application that recognizes the need for moving the pivotal axis forward or rearward relative to the hard hat depending on the chosen accessory, and then proposes a solution in which interchangeable brackets are used to effectuate such movement.

Referring now to the claims of the present application, independent claims 1, 8 and 9 have each been amended to further clarify that the second pivotal axis is at a location more forward or rearward relative to the helmet than that of the first pivotal axis. In other words, unlike the '163 which illustrates two "separable unit of the attachment" which define pivot axes 23, 37 separated by a nominal vertical distance, the system of the present invention provides for a second pivotal axis that is at a location more forward or rearward relative to the helmet than

that of the first pivotal axis.

Accordingly, independent claims 1, 8 and 9 are now believed to be allowable over the cited prior art references. Furthermore, claims 2-7 depend from claim 1 and are each also believed to be allowable in light of the argument set forth above. Therefore, Applicant respectfully requests allowance of all claims now pending in the present application.

Respectfully submitted,



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